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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI V.K. SHRIVASTAVA, J.

WRIT PETITION (S) NO. 5477 OF 2006

Petitioner — Smt. J. Savitri, Wd/o Late Shri J. Narasimulu, Aged about 51 years, Employed as Peon in the S.E.C. Rly. Mixed High School, BMY-Charoda, Resident of : Qr.No.78/D, Zone-I, BMY-CHARODA, Dist. Durg (CG).

Versus

Respondents

1. Union of India, Through : The General Manager, S.E.C. Railway, G.M. Office, Bilaspur Zone, Bilaspur – 495001.
2. The Divisional Railway Manager, South East Central Railway, Raipur Division, Raipur – 492001.
3. The Sr. Divisional Personnel Officer, South East Central Railway, Raipur Division, Raipur – 492001.
4. Central Administrative Tribunal, Jabalpur Bench, Through : The Registrar, Central Administrative Tribunal, Jabalpur Bench, Caravs Building, Civil Lines, Jabalpur – 482001.

Present: Shri B.P. Rao, learned counsel for the petitioner.

Shri Abhishek Sinha, learned counsel for the Railways/ respondents No.1 to 3.

ORAL ORDER

(Dated 15th November, 2006.)

The following oral order of the Court was passed by **S.R. Nayak, CJ.** :

Original Application No.286 of 2005 filed by the widow of the deceased employee has been rejected in *limine* by the Central Administrative Tribunal, Jabalpur Bench, Circuit Court Sitting at Bilaspur

(for short "the Tribunal") summarily on the ground of limitation, delay and laches.

The husband of the petitioner while in service died on 27-08-1973 leaving behind him the petitioner and one minor daughter. On a request made by the petitioner, appointment on compassionate ground was offered to the petitioner and she has been in service. In addition, a sum of Rs.6966=40 towards PF/REIS was also paid to her. After a lapse of roughly 32 years, O.A.No.286 of 2005 was instituted before the Tribunal for a direction to the respondent – Department to consider and dispose of the latest representation of the petitioner dated 18-07-2004 for family pension marked as Annexure-A/13 before the Tribunal. Opposing the Original Application on behalf of the Department, it was contended that the application is not maintainable; the husband of the petitioner worked only for 4 years 9 months; after the demise of the husband of the petitioner, she was paid a sum of Rs.6966=40 towards PF/REIS. It was also contended that the service record of the deceased employee was not available to verify the genuineness of the facts stated by the petitioner in her representation. The Tribunal after appreciating the plea raised by the Department with regard to the limitation and in view of the fact that the records are not available refused the direction sought by the petitioner. Hence, this writ petition.

Having heard learned counsel for the parties, there is absolutely no good ground made for us to interfere with the order of the Tribunal. Law helps the diligent, not indolent. If, in fact, on the demise of the husband, the petitioner was entitled to family pension under the Pension Rules, the petitioner ought to have agitated her right either before the Department or before judicial forum without much loss of time. In 1974 not only she was paid a sum of Rs.6966=40 towards PF/REIS, but also she was offered

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appointment on compassionate ground. She did not make any attempt to claim family pension during all these 32 years. Since the records are also not available, it is quite doubtful whether the copies of the representation now produced before the Tribunal and this Court are actually genuine representations. Assuming that such representations were made in the year 1973-74, in the facts and circumstances of the case, it should be held that the petitioner waived her right by her conduct. Above all, it was pointed out by the Department that the deceased employee had put in service only 4 years 9 months and, therefore, under Family Pension Rules, the petitioner is not entitled to family pension. Looking from that angle also, no case is made out to step in under Article 226 of the Constitution of India and interfere with the impugned order of the Tribunal. The writ petition is, therefore, dismissed. No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Gowri